IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (LODGING) NO. 2869 OF 2004

Mrs. Ashleen F. Fernandes ...Petitioner

Versus

University of Mumbai and Ors. ...Respondents

Mr. Bomi Patel instructed by Bhuta & Associates for the petitioner.
Ms. A.K.Savla for respondent No.2.

CORAM: **DALVEER BHANDARI, C.J.** &
DR. D.Y. CHANDRACHUD, J.

DATE: **OCTOBER 21, 2004**.

P.C.

The petitioner passed her H.S.C. Examination in March, 1985 and joined third respondent College in July, 1985 for B.Sc. (O.T.) [Bachelor of Science-Occupation Therapy]. The said course was for duration of three and a half years.

2. The petitioner appeared for her final examination in November, 1989. Out of the total six papers, the petitioner could appear only for four papers and could not appear for two papers for health reasons. It is stated in the petition that petitioner, due to domestic reasons and other compulsions, could not appear for the remaining two

papers.

3. In April, 2004, the petitioner approached third respondent as she wished to appear for the balance two papers i.e. Medicine and Surgery. The University of Mumbai by its letter dated 23rd August, 2004 informed the third respondent that petitioner may be deemed eligible to appear for the said two papers for the examination to be held in October, 2004.

4. It is further stated in the petition that 30th August, 2004 was the last date to file examination forms with third respondent and the petitioner had no option but to give an undertaking as asked for.

5. A letter dated 5th October, 2004 was received by the petitioner from respondent No.3 asking the petitioner to deposit Rs.76,045/- before appearing for the examination. This letter was received by the petitioner on 13th October, 2004. The petitioner replied to the said letter by her letter dated 15th October, 2004 and stated that the demand raised by third respondent was totally unreasonable and there is no basis for charging that amount.

6. When the petition came up for admission hearing today, we asked the Counsel appearing for the Corporation about the details of the aforesaid demand of Rs.76,045/-. The learned counsel for the respondent-Corporation has shown a letter dated 10th September, 2004 which shows that the petitioner has to pay term fee from November, 1989 to June, 2004 amounting to Rs.3,625/-, gymnasium fee amounting to Rs.2,580/- and fine of Rs.69,840/- , aggregating to an amount of Rs.76,045/- . We fail to comprehend that when the petitioner did not attend the College for all these years, how a term fee from 1989 to 2004 and gymnasium fee from November, 1989 to 2004 can at all be charged from the petitioner. We also see no justification for charging fine of Rs.69,840/-. All these charges which the respondent-Corporation are seeking to recover from the petitioner are totally untenable and have no basis.

7. Considering the facts and circumstances, the letter dated 5th October, 2004, at Exhibit-E to the petition, issued to the petitioner demanding dues amounting to Rs.76,045/- is quashed and set aside. The petitioner would be permitted to appear for the B.Sc. (OT) examination to be held on 23rd and 26th October, 2004, without the demand of payment of Rs.76,045/-. The learned counsel appearing for

the petitioner states that the petitioner has already paid the examination fee and other fees required by the University at the time of filling the form and submitting it before the College. The learned counsel appearing for the Corporation would ensure that petitioner is issued a hall ticket and is allowed to appear in the examination. No further directions are necessary. This writ petition is accordingly disposed of.

CHIEF JUSTICE

DR. D.Y. CHANDRACHUD, J.